

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-0871V

UNPUBLISHED

JOHN BIRRELL-LEVINE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 26, 2021

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Kelly Danielle Burdette, Burdette Law, PLLC, North Bend, WA, for Petitioner.*

*Zoe Wade, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On July 16, 2020, John Birrell-Levine filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered a left shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine received on November 27, 2019. Petition at 1. Petitioner further alleges the vaccine was received in the United States, he suffered residual effects of his injury for more than six months, and he has not received compensation or filed a civil action for his vaccine-related injuries. Petition at ¶¶ 3, 10, 12. The case was assigned to the Special Processing Unit of the Office of Special Masters.

<sup>1</sup> Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On October 21, 2021, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent "did not identify any other causes for petitioner's injury, and records show that he suffered the sequela of this injury for more than six months." *Id.* at 3. Respondent further agrees that "petitioner has met the statutory requirements for entitlement to compensation . . . [and] satisfied all legal prerequisites for compensation under the Act." *Id.*

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master